

Message

From: Ward, W. Robert [Ward.Robert@epa.gov]
Sent: 5/1/2015 5:35:39 PM
To: Chin, Lucita [Chin.Lucita@epa.gov]
CC: Logan, Paul [Logan.Paul@epa.gov]; Boydston, Michael [Boydston.Michael@epa.gov]
Subject: RE: NRC Board Delivers Mixed Decision on Dewey Burdock

Good point – thanks for your review.

W. Robert Ward
Regional Counsel
U.S. Environmental Protection Agency
Region VIII
303-312-7100 (direct)
303-312-6736 (office)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Chin, Lucita
Sent: Friday, May 01, 2015 10:26 AM
To: Ward, W. Robert
Cc: Logan, Paul; Boydston, Michael
Subject: RE: NRC Board Delivers Mixed Decision on Dewey Burdock

That sounds good. Mike and I are both reviewing the decision. There are 2 docs: a Partial Decision and then a Memo and Order which combined are 240 pages!

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Lucita

Lucita Chin
Associate Regional Counsel
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
303.312.7832

From: Ward, W. Robert
Sent: Friday, May 01, 2015 10:21 AM
To: Chin, Lucita
Cc: Logan, Paul
Subject: FW: NRC Board Delivers Mixed Decision on Dewey Burdock

Lucita, Thank you for sending this around. Interesting analysis.

Ex. 5 Attorney Client (AC)

Thanks, Bob

W. Robert Ward
Regional Counsel
U.S. Environmental Protection Agency
Region VIII
303-312-7100 (direct)
303-312-6736 (office)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

From: Chin, Lucita

Sent: Friday, May 01, 2015 7:01 AM

To: O'Connor, Darcy; Videtich, Callie; Minter, Douglas; Shea, Valois; Logan, Paul; Ward, W. Robert; Laumann, Sara; Bloom, Judy; Russell, Carol; Boydston, Michael; Hanley, Jim

Subject: NRC Board Delivers Mixed Decision on Dewey Burdock

http://rapidcityjournal.com/news/local/nrc-board-delivers-mixed-decision-on-uranium-mining-plan/article_5c648947-7095-5319-b46b-b4674a778b51.html

Developers and opponents of a planned uranium mining operation in Custer and Fall River counties rarely agree, and on Thursday both saw a federal decision as a victory for their side.

The lengthy decision comes months, and hundreds of legal filings, after the Nuclear Regulatory Commission's Atomic Safety and Licensing Board took testimony here on a contested license the NRC granted to Powertech Uranium, now Azarga Uranium, to develop its Dewey-Burdock in situ leach uranium facility near Edgemont.

The licensing board found in Powertech's favor on five opponents' challenges relating to water quality and quantity. It did, however, revise Powertech's license, instructing the company to make more efforts to find and "properly abandon" existing drill holes at the site to prevent contamination.

"We were very happy with all the science-based decisions that they made," Dewey-Burdock Project Manager Mark Hollenbeck of Edgemont said Thursday. Hollenbeck said all of the licensing board's decisions upheld Powertech's scientific data on water quality and hydrology.

Thursday's ruling does not, however, end what Hollenbeck calls the "regulatory purgatory" Powertech has been in for more than seven years. The Environmental Protection Agency, the Bureau of Land Management and South Dakota regulators have yet to approve the project.

"Hopefully, this ruling will at least show the reasonable and logical people that our science is good, and we will continue forward and hopefully create clean energy and jobs for South Dakota," Hollenbeck said.

The licensing board ruled in favor of the Oglala Sioux Tribe on the threat the mining operation would pose to Native American cultural, historic and religious sites in the wellfield. The board found that the NRC staff's final environmental impact statement does not comply with the National Environmental Protection Act because it fails to adequately address those issues.

Furthermore, the licensing board found that the NRC staff members did not properly conduct a government-to-government consultation with the OST as required by law to identify any harm the project would do to culturally significant sites.

"We've argued from the start that this project will require substantial study and analysis, and the board agrees with us today," OST attorney Jeffrey Parsons of Lyons, Colo., said Thursday. "We've said from the beginning that Powertech's analysis was inadequate. NRC staff did not complete that analysis, and now finally the board is telling them to go back and do the work they should have done on the front end."

Dewey-Burdock opponents were already voicing objections when the NRC granted Powertech's license in April 2014. The Oglala Sioux Tribe and a group, known as the Consolidated Intervenor, responded by raising a list of challenges that resulted in hearings in Hot Springs and Rapid City late last August.

Along with the Native Americans' challenges over cultural issues, ranchers and environmental groups continue to insist that in situ leach recovery, a process that injects treated water to leach trapped uranium from underground formations, poses a significant threat of contamination to aquifers.

"Hopefully, the company and the NRC recognize the significance of the ruling today, and they will stop trying to gloss over the serious problems with the proposed project and to move forward on the cheap," Lillias Jarding, of the Clean Water Alliance, said in a release issued Thursday.

By requiring that Powertech find and prevent contamination from all drill holes left from previous uranium mining attempts and keep the NRC informed, the licensing board is telling the NRC staff members they need to take a serious look at the information they receive, said Bruce Ellison of Rapid City, one of the attorney's representing the Consolidated Intervenor.

"And essentially, you can't just rubber stamp anything an applicant says," Ellison stressed.

The board took into consideration thousands of drilling logs and data left from 7,500 known bore holes that are in the area, Ellison said, adding that the decision noted that there was evidence of fractures and faults that could raise concerns.

Powertech has been very dismissive of the tribal and environmental concerns, Parsons, the OST attorney, said.

"Hopefully, this time the company will take it seriously. Hopefully, they understand that the issues we've raised were very serious."

Lucita Chin
Associate Regional Counsel
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
303.312.7832